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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-365

HYYESA NIA ANSARI
11126 Evers Avenue
Los Angeles, California 90059

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about August 18, 2005, the Respiratory Care Board of California (Board) received an application for a Respiratory Care Practitioner License from Hyyesa Nia Ansari (Respondent). On or about May 23, 2005, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on April 5, 2006.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
4 8.3, the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and
6 revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3732, subdivision (b) of the Code states:

8 “The board may deny an application, or may order the issuance of a license
9 with terms and conditions, for any of the causes specified in this chapter for
10 suspension or revocation of a license, including, but not limited to, those causes
11 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761.”

12 7. Section 3750 of the Code states:

13 “The board may order the denial, suspension or revocation of, or the
14 imposition of probationary conditions upon, a license issued under this chapter, for
15 any of the following causes:

16 “ . . .

17 “(d) Conviction of a crime that substantially relates to the qualifications,
18 functions, or duties of a respiratory care practitioner. The record of conviction or a
19 certified copy thereof shall be conclusive evidence of the conviction.

20 “ . . .

21 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
22 substantially related to the qualifications, functions, or duties of a respiratory care
23 practitioner. . . .”

24 8. Section 3752 of the Code states:

25 “A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge of any offense which substantially relates to the
27 qualifications, functions, or duties of a respiratory care practitioner is deemed to be
28 a conviction within the meaning of this article. The board shall order the license

1 suspended or revoked, or may decline to issue a license, when the time for appeal
2 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
3 order granting probation is made suspending the imposition of sentence,
4 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
5 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
6 setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.”

8 9. Section 480 of the Code states:

9 "(a) A board may deny a license regulated by this code on the grounds that
10 the applicant has one of the following:

11 "(1) Been convicted of a crime. A conviction within the meaning of this
12 section means a plea or verdict of guilty or a conviction following a plea of nolo
13 contendere. Any action which a board is permitted to take following the
14 establishment of a conviction may be taken when the time for appeal has elapsed, or
15 the judgment of conviction has been affirmed on appeal, or when an order granting
16 probation is made suspending the imposition of sentence, irrespective of a
17 subsequent order under the provisions of Section 1203.4 of the Penal Code.

18 "(2) Done any act involving dishonesty, fraud or deceit with the intent to
19 substantially benefit himself or another, or substantially injure another; or

20 "(3) Done any act which if done by a licentiate of the business or profession
21 in question, would be grounds for suspension or revocation of license.

22 " The board may deny a license pursuant to this subdivision only if the crime
23 or act is substantially related to the qualifications, functions or duties of the business
24 or profession for which application is made.

25 "(b) Notwithstanding any other provision of this code, no person shall be
26 denied a license solely on the basis that he has been convicted of a felony if he has
27 obtained a certificate of rehabilitation under Section 4852.01 and following of the
28 Penal Code or that he has been convicted of a misdemeanor if he has met all

1 applicable requirements of the criteria of rehabilitation developed by the board to
2 evaluate the rehabilitation of a person when considering the denial of a license
3 under subdivision (a) of Section 482. . . .”

4 10. California Code of Regulations, Title 16, section 1399.370, states:

5 “For the purposes of denial, suspension, or revocation of a license, a crime
6 or act shall be considered to be substantially related to the qualifications, functions
7 or duties of a respiratory care practitioner, if it evidences present or potential
8 unfitness of a licensee to perform the functions authorized by his or her license or in
9 a manner inconsistent with the public health, safety, or welfare. Such crimes or acts
10 shall include but not be limited to those involving the following:

11 “ . . .

12 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny. . . .”

13 COST RECOVERY

14 11. Section 3753.5, subdivision (a) of the Code states:

15 "In any order issued in resolution of a disciplinary proceeding before the
16 board, the board or the administrative law judge may direct any practitioner or applicant
17 found to have committed a violation or violations of law to pay to the board a sum not to
18 exceed the costs of the investigation and prosecution of the case."

19 12. Section 3753.7 of the Code states:

20 "For purposes of the Respiratory Care Practice Act, costs of prosecution
21 shall include attorney general or other prosecuting attorney fees, expert witness fees, and
22 other administrative, filing, and service fees."

23 13. Section 3753.1, subdivision (a) of the Code states:

24 "An administrative disciplinary decision imposing terms of probation may
25 include, among other things, a requirement that the licensee-probationer pay the monetary
26 costs associated with monitoring the probation."

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1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Conviction of a Crime)

3 14. Respondent's application is subject to denial under Code sections
4 3750, subdivision (d), 3752, and 480, and California Code of Regulations, Title 16, section
5 1399.370, subdivision (b), in conjunction with section 3732, subdivision (b), in that
6 respondent was convicted of a crime substantially related to the qualifications, functions
7 and duties of a respiratory care practitioner. The circumstances are as follows:

8 A. In 1999, respondent was a senior airman in the United States Air
9 Force at Robins Air Force Base in Georgia. On or about June 11, 1999, the
10 Department of the Air Force, Office of Special Investigations, initiated an
11 investigation based upon information that two checks in the amount of \$17,751.15
12 belonging to Courtesy Ford-Mitsubishi-Suzuki of Poulsbo, Washington (Courtesy-
13 Ford), had been altered by respondent who showed her name as payee on the
14 checks.

15 B. Respondent was tried by a general court martial. She was found
16 guilty of stealing \$17,751.15, the property of Courtesy Ford, in violation of UCMJ
17 Article 121. On or about November 17, 2000, by general court martial order, she
18 was sentenced to a bad conduct discharge, confinement for one year and two
19 months, forfeiture of all pay and allowances, and reduction to the grade of an
20 airman basic. The sentence was affirmed on appeal.

21 SECOND CAUSE FOR DENIAL OF APPLICATION

22 (Commission of a Fraudulent, Dishonest, or Corrupt Act)

23 15. Respondent's application is subject to denial under Code section
24 3750, subdivision (j), in conjunction with section 3732, subdivision (b), in that she
25 committed a fraudulent, dishonest or corrupt act that is substantially related to the
26 qualifications, functions, or duties of a respiratory care practitioner.

27 A. The facts and circumstances set forth in Paragraph 14 of this
28 Statement of Issues are incorporated herein by reference.

1 B. On or about August 18, 2005, the Board received an
2 application for licensure as a respiratory care practitioner from respondent. Question 18 of
3 the application required respondent to state whether she had ever been convicted of a
4 misdemeanor; a felony; a drug or alcohol-related citation; or a non-Vehicle Code citation.
5 In answer to this question, respondent asserted that she had not been convicted of any such
6 offenses. On or about May 23, 2005, respondent signed a certification in the application
7 declaring under penalty of perjury that all information she had supplied on the application
8 was true and correct. She thereafter submitted the application to the Board. As
9 respondent was well aware at the time she signed this certification, her answer to Question
10 18 was false by virtue of her court martial conviction set forth in Paragraph 14 above.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters
13 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

14 1. Denying the application of Hyyesa Nia Ansari for a Respiratory Care
15 Practitioner;

16 2. Directing Hyyesa Nia Ansari to pay the Respiratory Care Board of
17 California the costs of the investigation and enforcement of this case, and if placed on
18 probation, the costs of probation monitoring;

19 3. Taking such other and further action as deemed necessary and
20 proper.

21 DATED: August 10, 2006

22
23 Original signed by Liane Zimmerman for:
24 STEPHANIE NUNEZ
25 Executive Officer
26 Respiratory Care Board of California
27 Department of Consumer Affairs
28 State of California
Complainant